

HARMON, CURRAN, SPIELBERG

1726 M Street, NW, Suite 600 Washington, DC 20036

EISENBERG, LLP

OFFICE OF GENERAL COUNSEL
(202) 528-1500 (202) 528-6918 fax

2008 JUN -2 P 2:01

May 27, 2008

Jeff S. Jordan
Federal Election Commission
999 E Street, NW
Washington, DC 20463

Dear Mr. Jordan:

I am writing on behalf of Communities Voting Together ("CVT") in response to MUR 5970. Because this complaint does not allege facts that amount to a violation of the Federal Election Campaign Act, it does not provide a basis to find reason to believe a violation has occurred.

CVT is an unincorporated association. It has an office in Washington, DC, and administrative offices in New Orleans, Louisiana.¹ Its activities include public advocacy around various issues. In 2006, CVT mailed out issue advocacy leaflets referring to Congressman Albert Wynn. One of these was reproduced in part in the complaint. The complete document is attached to the declaration of Jeff Robinson, submitted with this response. In 2008, CVT also mailed out issue advocacy leaflets that referred to Congressman Wynn. In addition, CVT distributed those leaflets in a door-to-door canvass.

The complaint references these activities, but does not explain how CVT's actions are alleged to have violated the law. However, Ms. Sherwood also appears to be operating under several misapprehensions. As demonstrated by the declarations of Jeff Robinson and Johanna Sharrad,² CVT did not "attempt[] to hire canvassers to assist the Edwards Campaign," but rather hired canvassers to distribute its issue communications.

The complaint further attempts to establish by innuendo and irrelevant circumstances that there was some sort of improper nexus between CVT and other organizations that had direct relationship with Ms. Edwards or her campaign, apparently seeking to imply that this connection makes it impossible for CVT to have acted independently in making its public communications in Maryland. However, a finding of coordination in the relevant sense requires more than mere connections between people or organizations. The lines between circles on a chart created by Ms. Sherwood do not constitute evidence of anything.

¹ This administrative office is the address of the custodian of records mentioned in the complaint. Although Ms. Sherwood thinks it highly suspicious, it is hardly surprising that an organization would have its records kept in the office where administrative services are provided.

² Attached to this response is an unsigned declaration from Ms. Sharrad. Due to the short time allowed to respond in this matter, we have not been able to get a signed copy in hand by the deadline for this response. The signed version should be received within a few days and we will forward it at that time.

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HARMON, CURRAN, SPIELBERG EISENBERG, LLP

CVT
MUR 5970
Page 2

It is the case that, in 2006, CVT and the Edwards campaign hired the same vendor to provide services. This fact alone does not amount to coordination, as the Commission's regulations recognize. Use of a common vendor causes communications to be coordinated only when the vendor uses certain information. 11 C.F.R. § 1.109.21(d)(4)(iii). Mr. Robinson's declaration demonstrates that he was solely responsible for decision-making around the content, timing, audience, distribution, medium, and all other significant factors relating to CVT's public communications in both 2006 and 2008. Mr. Robinson did not have information regarding the campaign's plans, projects, activities, or needs, and therefore such information was not taken into account in the creation, production, or distribution of any of CVT's communications in Maryland. He received no request or suggestion from the campaign or anyone acting on its behalf, and he did not rely on any information (if it existed) previously used by CSI in providing services to the Edwards campaign.

The complaint also mischaracterizes the relationship between CVT and Citizens Services Inc., a company with which CVT had a contractual relationship to perform various services from time to time. The \$60,000 payment in November, 2005 was for services unrelated to any communications occurring in Maryland. (Robinson declaration paragraph ____.) It appears to have been incorrectly characterized on a tax filing as a contribution rather than a fee for services. This is an unfortunate oversight, but not a FECA violation. In any case, whatever the relationship between CSI and CVT, CVT's communications were created solely by Mr. Robinson, who did not have access to or rely on information about the Edwards campaign that would cause them to be treated as coordinated.

CVT did not, therefore, engage in any of the conduct described in 11 C.F.R. § 109.21(d). Its public communications were not "coordinated communications" treated by the regulations as an in-kind contribution and expenditure. Rather, CVT made independent issue advocacy communications. There is no reason that any contributions from CVT to the Edwards Campaign should have been reported, as implied by the complaint.

Nor did CVT make reportable independent expenditures. 11 C.F.R. § 100.16 defines an "independent expenditure" as "an expenditure by a person for a communication expressly advocating the election or defeat of a clearly identified candidate that is not" coordinated with a campaign, a party, or their agents. CVT's communications do not meet this test because they did not contain express advocacy. Commission regulations provide two alternative definitions of "expressly advocating." 11 C.F.R. § 100.22(a) and (b). The first of these is clearly not applicable because CVT's communications do not include any language "which in context can have no other reasonable meaning than to urge the election or defeat of one or more clearly identified candidate(s)." § 100.22(a). Indeed, there is no reference to voting or elections, and so cannot be any express advocacy under this "magic words" standard. Further, CVT's communications do not fall within the second definition, which requires that the communications

could only be interpreted by a reasonable person as containing advocacy of the election or defeat of one or more clearly identified candidate(s) because--

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CVT
MUR 5970
Page 3

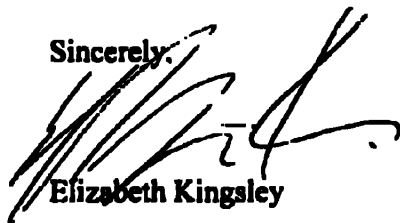
- (1) The electoral portion of the communication is unmistakable, unambiguous, and suggestive of only one meaning; and
- (2) Reasonable minds could not differ as to whether it encourages actions to elect or defeat one or more clearly identified candidate(s) or encourages some other kind of action. § 100.22(b)

CVT's leaflets have no electoral portion. There is no reference to voting, elections, or candidacy. Furthermore, there is an explicit encouragement for the reader to take a non-electoral action – calling her or his Congressional representative about the positions he has taken on public policy issues of concern to the constituent. Reasonable minds can only conclude that the communications do not encourage actions to elect or defeat Mr. Wynn.

In sum, in 2006 CVT acted entirely independently and on its own to distribute public communications that referred to Mr. Wynn but did not expressly advocate the election or defeat of any candidate. In 2008, CVT distributed similar communications and hired a vendor to assist in the door-to-door distribution of its materials. The vendor had worked for the Edwards campaign in 2006, but had no such relationship in 2008.

The actions described in this complaint do not describe a violation of the Act. Accordingly, we urge the Commission to dismiss this complaint with respect to CVT with a finding of no reason to believe a violation has occurred.

Sincerely,



Elizabeth Kingsley

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FEDERAL ELECTION COMMISSION

RE: MUR 5970

DECLARATION OF JOHANNA SHARRARD

1. My name is Johanna Sharrard. I am GOTV and Elections Coordinator for Citizens Services, Inc. ("CSI").
2. In early 2008, I served as the on-the-ground project manager for work CSI carried out on behalf of Communities Voting Together.
3. In that capacity, I oversaw the recruitment and training of door-to-door canvassers to deliver printed leaflets to residents in Maryland.
4. The flyer attached to this declaration was used to recruit those canvassers.
5. To the best of my knowledge, no one recruited to work as a canvasser was told they would be working "to assist the Edwards campaign."

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge.

Johanna Sharrard

date

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DEMOCRACY IS NOT A SPECTATOR SPORT

**CSI is hiring Political Organizers to Take it to the Streets
and fight for Social Justice! Work for Affordable
Housing, Living Wages, School Reform, and more!**

FULL & PART TIME POSITIONS AVAILABLE!

Call TODAY! Ask for Johanna.

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DEMOCRACY IS NOT A SPECTATOR SPORT

**CVT is hiring Political Organizers to Take it to the
Streets and fight for Social Justice! Work for Affordable
Housing, Living Wages, School Reform, and more!**

FULL & PART TIME POSITIONS AVAILABLE!

Call TODAY! Ask for Johanna.

202-465-2598

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FEDERAL ELECTION COMMISSION

RE: MUR 5970

DECLARATION OF JEFF ROBINSON

1. My name is Jeff Robinson. I am the Executive Vice President of Citizen's Services, Inc. ("CSI"), a political consulting firm. I have held that position since January 1, 2006, and for approximately 3 months before then was a consultant to CSI.

2. In 2006, I was responsible for a project CVT carried out in Maryland. CVT mailed leaflets and sent automated phone calls to residents of the 4th Congressional District to inform Congressman Wynn's constituents of his record on various public policy issues and urging them to contact him with regard to those issues. Exhibits I attached to this Declaration reproduce one of those leaflets.

3. I personally prepared the content of the 2006 leaflets and phone scripts. I selected the list of constituents these communications went to. I did not discuss CVT's plans for this project with anyone else except as necessary to implement the project. In particular, I did not discuss my plans for these communications with any other CSI employee or consultant. I did not have any information regarding the plans, projects, activities, or needs of the Edwards campaign when I prepared and sent the mail pieces or phone scripts. I did not receive any request or suggestion from the campaign, a political party, or an agent of either, regarding any public communications by CVT. In deciding what means of communication to use, the content of those communications, the timing and audience for them, I relied on my own judgment and information from public sources. I did not have access to any information such as polling or research conducted by CSI other than my own work.

4. Other than the mailed leaflets and phone calls, CVT did not distribute any communications in any medium that referred to either Donna Edwards or Al Wynn during the period October 1, 2005 through the date of the Democratic primary election.

5. In late 2007 and early 2008, CVT again engaged in activities to draw Congressman Wynn's legislative record to the attention of his constituents and encourage them to contact him regarding it. This project consisted of mailing leaflets to residents of the fourth Congressional district, and a door-to-door canvass that distributed the same leaflets to residents' houses.

6. I personally prepared the content of these leaflets and determined who they would be delivered to. I did not have any communications with the Edwards campaign, any political party committee, or an agent of either, regarding any aspect of this project. I did not have any information regarding the plans, projects, activities, or needs of the Edwards campaign when I prepared and planned the distribution of the leaflets.

7. CVT hired Citizen's Services, Inc. ("CSI") to conduct these activities in both 2006 and 2008. CSI provided the materials for distribution and instructions regarding the houses to be

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visited. CSI was responsible for recruiting and supervising canvassers to distribute CVT's advocacy materials. CSI was not authorized to represent that canvassers would "assist the Edwards Campaign," nor to my knowledge did it do so.

8. On November 16, 2005 CVT made a payment of \$60,000 to CSI for services rendered under a different contract, for activities carried out in a state other than Maryland and unrelated to CVT's activities in Maryland during late 2005 and early 2006. I personally had knowledge of this transaction.

9. As Executive Vice President of CSI, I had conversations with CSI employees regarding the contract for services under which the November 16 payment was made, but in the course of those conversations I did not discuss any aspect of CVT's plans for mailing leaflets to Maryland residents.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge.


Jeff Robinson

May 27, 2008
date

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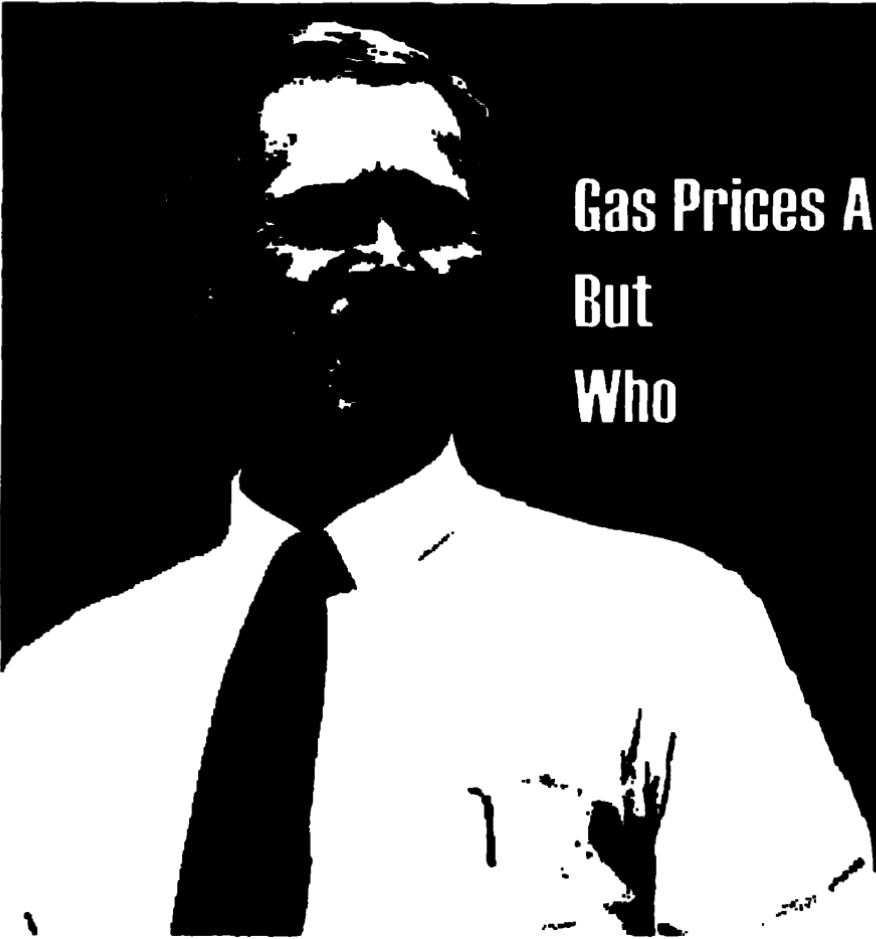


Bush, Cheney and Big Oil can count on one Democrat.

**Communities Voting Together
1024 Elysian Fields Avenue
New Orleans, Louisiana 70117-8402**

Paid for by Communities Voting Together, 1024 Elysian Fields Avenue, New Orleans, Louisiana.

CVT06002



**Gas Prices Are Out of Control
But Who Is One Democrat**

Gas and oil companies are making record profits while Maryland families are paying the highest gas prices ever. When Congressman Albert Wynn should have been protecting us, he chose to support the Bush-Cheney energy bill – a bill written by the gas and oil industries.

Albert Wynn Owes Us An Explanation

- **Voted to Give Oil Companies Billions of Dollars in Tax Cuts.**
- **Supports Bush-Cheney Energy Bill That Was Written by the Oil and Gas Industry.**
- **Takes \$61,056 from Gas and Oil Companies While We Pay Record Prices at the Pump.**

When it comes to America's energy prices, Albert Wynn sides with Bush-Cheney. The least he can do is tell us why.

Call Congressman Wynn at (202) 225-8699.